

## “Ban the Box” Legislation – On the Move ...

*You are conducting a job interview and you ask the applicant about her current salary. All good, right? Surely you have a right to this information??*

**WRONG** ... in some cities and states.

Several states, most recently including California, are banning questions about prior salary as part of efforts to ensure equality in pay for women. Compensation experts claim these laws address the unfairness associated with potentially tying the new employee to a prior salary that may have been below market rate for a number of reasons, including gender.

Prohibition against asking applicants for prior salaries follows passage of “ban the box” laws in many states barring employers from requiring applicants to disclose criminal records.

On October 14, 2017, California became the tenth state to pass legislation requiring private sector employers to “ban the box” on employment applications seeking applicants’ criminal histories (A.B. 1008). On the same date, legislation was passed restricting employers’ use of salary history information, including compensation and benefits (A.B. 168). California employers may consider salary history information that an applicant offers voluntarily; employers may not ask for the information on an application or in an interview. Under this law, employers are also required to give applicants the pay scale for a position upon request.

These California laws will go into effect on January 1, 2018.

Earlier this year, New Orleans Mayor Mitch Landrieu entered an executive order prohibiting inquiries into historical pay with respect to applicants for city positions.

<https://www.nola.gov/mayor/press-releases/2017/20170125-pr-mayor-issues-executive-order-to-address/>

### What Should Employers Do?

1. Find out whether cities or states in which your company operates or considers applicants for employment have “ban the box” laws which prohibit against obtaining salary information.
2. Consider updating applications to remove inquiries related to criminal history or information regarding current salary.
3. Train hiring managers and notify third party recruiters or background checkers to avoid inquiring about conviction history or current salary information.
4. Ensure your company does not rely on criminal history or prior salary information if such information is “banned” in your state!



Leslie Ehret  
1100 Poydras Street  
Suite 3700  
New Orleans, LA 70163  
Phone: (504) 599-8203  
Email: [lehret@frilot.com](mailto:lehret@frilot.com)